Part 1
Counting Ballots and Tabulating Results

20A-4-101 Counting paper ballots during election day.
(1) Each county legislative body or municipal legislative body that has voting precincts that use paper ballots and each poll worker in those voting precincts shall comply with the requirements of this section.
(2)
  (a) Each county legislative body or municipal legislative body shall provide:
    (i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and
    (ii) a counting room for the use of the poll workers counting the ballots during the day.
  (b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:
    (i) close the first ballot box and deliver it to the counting judges; and
    (ii) prepare and use another ballot box to receive voted ballots.
  (c) Upon receipt of the ballot box, the counting judges shall:
    (i) take the ballot box to the counting room;
    (ii) count the votes on the regular ballots in the ballot box;
    (iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and
    (iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.
  (d)
    (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and
    (ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.
  (e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.
(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the count.
(4) The counting judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

Amended by Chapter 225, 2008 General Session

20A-4-102 Counting paper ballots after the polls close.
(1)
  (a) Except as provided in Subsection (2), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.
  (b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.
(2)
  (a) First, the election judges shall count the number of ballots in the ballot box.
  (b)

  (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

  (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

 (c)

  (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

  (ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

  (iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

 (d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

 (a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

 (b) seal that envelope or container.

(4) The judges shall:

 (a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

 (b) seal that envelope or container.

(5)

 (a) In counting the votes, the election judges shall read and count each ballot separately.

 (b) In regular primary elections the judges shall:

  (i) count the number of ballots cast for each party;

  (ii) place the ballots cast for each party in separate piles; and

  (iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6)

 (a) In all elections, the counting judges shall:

  (i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

  (ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

  (iii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

  (iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

  (v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

  (vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

  (vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

 (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.
(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.
(7) Only election judges and counting poll watchers may be present at the place where counting is conducted until the count is completed.

Amended by Chapter 177, 2002 General Session

20A-4-103 Preparing ballot sheets for the counting center.
(1)
  (a) In voting precincts using ballot sheets, as soon as the polls have been closed and the last qualified voter has voted, the poll workers shall prepare the ballot sheets for delivery to the counting center as provided in this section.
  (b) The poll workers, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.
(2) The poll workers shall:
  (a) place all of the provisional ballot envelopes in the envelope or container provided for them for return to the counting center; and
  (b) seal that envelope or container.
(3)
  (a) The poll workers shall check each secrecy envelope to see if either contains any write-in votes.
  (b) If a secrecy envelope does not contain any write-in votes, the poll workers shall remove the ballot sheet from the secrecy envelope.
  (c) If a secrecy envelope contains any write-in votes, the poll workers may not separate the ballot sheet from the secrecy envelope.
(4) The poll workers shall place:
  (a) the voted ballot sheets and one copy of the statement of disposition of ballots in the transfer case;
  (b) the other copy of the statement of disposition of ballots, the pollbook, any unprocessed absentee ballots, the poll workers' pay vouchers, the official register, and the spoiled ballot envelope in the carrier envelope provided; and
  (c) the other election materials in the election supply box.

Amended by Chapter 326, 2006 General Session

20A-4-104 Counting ballots electronically.
(1)
  (a) Before beginning to count ballot sheets using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.
  (b) The election officer shall publish public notice of the time and place of the test at least 48 hours before the test in one or more daily or weekly newspapers of general circulation published in the county, municipality, or jurisdiction where the equipment is used.
  (c) The election officer shall conduct the test by processing a preaudited group of ballot sheets.
  (d) The election officer shall ensure that:

      (i) a predetermined number of valid votes for each candidate and measure are recorded on the ballot sheets;

      (ii) for each office, one or more ballot sheets have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

      (iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

    (e) If any error is detected, the election officer shall determine the cause of the error and correct it.

    (f) The election officer shall ensure that:

      (i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

      (ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2)

    (a) The election officer or his designee shall supervise and direct all proceedings at the counting center.

    (b)

      (i) Proceedings at the counting center are public and may be observed by interested persons.

      (ii) Only those persons authorized to participate in the count may touch any ballot, ballot sheet, or return.

    (c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

    (d)

      (i) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the testing of equipment and actual counting of the ballot sheets.

      (ii) Those counting poll watchers may make independent tests of the equipment before or after the vote count as long as the testing does not interfere in any way with the official tabulation of the ballot sheets.

(3) If any ballot sheet is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall:

    (a) cause a true duplicate copy of the ballot sheet to be made with an identifying serial number;

    (b) substitute the duplicate for the damaged ballot sheet;

    (c) label the duplicate ballot card "duplicate"; and

    (d) record the duplicate ballot sheet's serial number on the damaged or defective ballot sheet.

(4) The election officer may:

    (a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

    (b) release unofficial returns from time to time after the polls close; and

    (c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6)

    (a) The election officer or his designee shall:

      (i) separate, count, and tabulate any ballots containing valid write-in votes; and

      (ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7)
  (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.
  (b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballot sheets with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Amended by Chapter 326, 2006 General Session

20A-4-105 Standards and requirements for evaluating voter's ballot choices.

(1) Each person counting ballots shall apply the standards and requirements of this section to resolve any questions that arise as ballots are counted.

(2) Except as provided in Subsection (11), if a voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the choice of any voter for any office to be filled, the counter may not count that voter's ballot for that office.

(3) The counter shall count a defective or incomplete mark on any paper ballot if:
  (a) it is in the proper place; and
  (b) there is no other mark or cross on the paper ballot indicating the voter's intent to vote other than as indicated by the defective mark.

(4)
  (a) When the voter has marked the ballot so that it appears that the voter has voted more than one straight ticket, the election judges may not count any votes for party candidates.
  (b) The election judges shall count the remainder of the ballot if it is voted correctly.

(5) A counter may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot or group of ballots show an intent by a person or group to mark their ballots so that their ballots can be identified.

(6)
  (a) In counting the ballots, the counters shall give full consideration to the intent of the voter.
  (b) The counters may not invalidate a ballot because of mechanical and technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3, Voting.

(7) The counters may not reject a ballot because of any error in:
  (a) stamping or writing any official endorsement; or
  (b) delivering the wrong ballots to any polling place.

(8) The counter may not count any paper ballot that does not have the official endorsement by an election officer.

(9) The counter may not count any ballot proposition vote or candidate vote for which the voter is not "legally entitled to vote" as used in Section 20A-4-107.

(10) If the counter discovers that the name of a candidate voted for is misspelled or that the initial letters of a candidate's given name are transposed or omitted in part or altogether, the counter

shall count the voter's vote for that candidate if it is apparent that the voter intended to vote for that candidate.

(11) The counter shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(12) In counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the judges shall count the valid write-in vote as being the obvious intent of the voter.

Amended by Chapter 390, 2013 General Session

20A-4-106 Paper ballots -- Sealing.

(1)
  (a)
    (i) At all elections using paper ballots, as soon as the counting judges have read and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.
    (ii) After the ballots are strung, they may not be examined by anyone, except when examined during a recount conducted under the authority of Section 20A-4-401.
  (b) The judges shall carefully seal all of the strung ballots in a strong envelope.
(2)
  (a) For regular primary elections, after all the ballots have been counted, certified to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate envelopes.
  (b) The judges shall:
    (i) seal each of the envelopes containing the votes of each of the political parties in one large envelope; and
    (ii) return that envelope to the county clerk.
  (c) The judges shall:
    (i) destroy the ballots in the blank ballot box; or
    (ii) if directed to do so by the election officer, return them to the election officer for destruction.
(3) As soon as the judges have counted all the votes and sealed the ballots they shall sign and certify the pollbooks.
(4)
  (a) The judges, before they adjourn, shall:
    (i) enclose and seal the official register, the posting book, the pollbook, the ballot disposition form, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots in a strong envelope or pouch;
    (ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been strung and placed in a separate envelope or pouch as required by Subsection (1);
    (iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot disposition form in a separate envelope or pouch;
    (iv) place all provisional ballots in a separate envelope or pouch; and
    (v) place the total votes cast form and the judges' vouchers requesting compensation for services rendered in a separate pouch.
  (b) Before enclosing the official register in the envelope or pouch, the election judges shall certify it substantially as follows:
        "We, the undersigned, judges of election for precinct _____, (jurisdiction) _____, Utah, certify that the required entries have been made for the election held _____(month\day\year), including:
          a list of the ballot numbers for each voter;

the voters' signatures, except where a judge has signed for the absentee voters;

a list of information surrounding a voter who is challenged,

including any affidavits; and

a notation for each time a voter was assisted with a ballot."

(5) Each judge shall:
  (a) write his name across the seal of each envelope or pouch;
  (b) mark on the exterior of the envelope or pouch:
    (i) the word "ballots" or "returns" or "unused ballots," or "provisional ballots" or other words
      plainly indicating the contents of the packages; and
    (ii) the number of the voting precinct.

Amended by Chapter 251, 2012 General Session

20A-4-107 Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:
  (a) the person:
    (i) is registered to vote in the state;
    (ii) votes the ballot for the voting precinct in which the person resides; and
    (iii) provides valid voter identification to the poll worker;
  (b) the person:
    (i) is registered to vote in the state;
    (ii)
      (A) provided valid voter identification to the poll worker; or
      (B) either failed to provide valid voter identification or the documents provided as valid voter
        identification were inadequate and the poll worker recorded that fact in the official register
        but the county clerk verifies the person's identity and residence through some other
        means; and
    (iii) did not vote in the person's precinct of residence, but the ballot that the person voted
      was from the person's county of residence and includes one or more candidates or ballot
      propositions on the ballot voted in the person's precinct of residence; or
  (c) the person:
    (i) is registered to vote in the state;
    (ii) either failed to provide valid voter identification or the documents provided as valid voter
      identification were inadequate and the poll worker recorded that fact in the official register;
      and
    (iii)
      (A) the county clerk verifies the person's identity and residence through some other means as
        reliable as photo identification; or
      (B) the person provides valid voter identification to the county clerk or an election officer who
        is administering the election by the close of normal office hours on Monday after the date
        of the election.
(2)
  (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation
    on the face of each provisional ballot envelope and determine if the person signing the
    affirmation is:
    (i) registered to vote in this state; and
    (ii) legally entitled to vote:
      (A) the ballot that the person voted; or

        (B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

    (b) If the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

    (c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

    (d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) If the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

    (a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

    (b)

        (i) register the person if the voter's county of residence is within the county; or

        (ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

    (a)

        (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

        (ii) eight or more days before the election, the individual who cast the provisional ballot:

            (A) completed and signed the voter registration; and

            (B) provided the voter registration to another person to file;

        (iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration less than eight days before the election; and

        (iv) the election officer receives the voter registration no later than one day before the day of the election; or

    (b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter.

Amended by Chapter 98, 2014 General Session
Amended by Chapter 231, 2014 General Session
Amended by Chapter 231, 2014 General Session, (Coordination Clause)